(Testimony of Adam Thomas Andrade.)

The Court: Proceed. State what was said.

The Witness: So I started to walk out, and Mr. Goddard said, "Tom, do me a favor—" this is Mr. Goddard's conversation. He said, "Do me a favor. Don't be foolish. Don't go saying nothing. You are mad now. Why don't you go up and see Abe?"

And that is when I told him I didn't want to go up stairs and see Abe. Abe is Mr. Moncharsh. If he wanted to see me, to let him come down and see me. Mr. Goddard then in return said, "Why don't you go up and see Jack Smith? You know you always got along with Jack Smith."

I said, "Ruby, if Jack Smith wants to see me, let him come down and see me."

So I proceeded to walk down a little stairs, walk out of the place, and Mr. Goddard is following me—I mean following me—he is walking alongside of me. The Rach Packing Company is right next door to it, and there is a vacant lot [3004] which is still there now. About the only difference there now is it has got a fence around it. My car was packed there. Mr. Goddard walked up the street with me to my automobile. He asked me to go up and talk to Mr. Jack Smith, and he begged me, he asked me to promise him that I wouldn't tell nothing. And I told Mr. Goddard, I said, "Ruby, I don't promise nothing." I said, "Your brother-in-law tried to tell me that the insurance companies—the doctor from the insurance company was wrong by claiming that I had a hernia." By that Mr.

(Testimony of Adam Thomas Andrade.)

Moncharch insisted that the insurance doctor didn't know what he was talking about.

Q. Let us just have the rest of the conversation with Mr. Goddard.

A. That concludes the conversation with Mr. Goddard. When he walked out as far as the Rach Packing Company, the end of the Rach Packing Company, the last thing Mr. Goddard asked me, he said, "Tom, promise me you won't say nothing." And I told Mr. Goddard, I said, "Ruby, it is your concern. You have always treated me right," I said, "but I don't promise you nothing," which I can say right here in this court. Mr. Goddard did treat me right while I was under his employment. That is all the conversation I had with Mr. Goddard when I left Nye & Nissen's employment.

Q. Did you ever go to any Government officer and make any complaint in connection with the operation of that company?

A. No, sir, I never did. [3005]

Mr. Pratt: That is all.

Cross-Examination

Mr. Faulkner: Q. Mr. Andrade, you were fired by Mr. Goddard, weren't you?

A. No, sir, I wasn't.

Q. When you left the plant of Nye & Nissen you went out of there and you said you will get the so-and-sos, s's of b's, didn't you.

A. No, sir, I did not,

Q. When you left the employ of the Spreckels

(Testimony of Adam Thomas Andrade.)

Creamery you left that plant saying you will get everybody in that creamery, too, didn't you?

A. No, I did not.

Q. In the year 1940 you had presented a claim against the firm of Nye & Nissen before the Industrial Accident Commission, hadn't you?

A. That is right, sir.

Q. And the claim was that you had received an injury, isn't that correct? A. No, sir.

Q. Didn't you make the claim that you had received an injury?

A. Yes, sir, that is right.

Q. And you had a hearing out in the Industrial Accident Commission, didn't you?

A. Yes, sir.

Q. Before a referee appointed by the State?

A. I wasn't there.

Q. You were not there?

A. No, sir.

Q. Didn't you make a claim against them that you sustained an injury while in the employ of the defendant Nye & Nissen as a teamster on the 4th of November, 1940?

A. I put in a claim, yes, sir. [3006]

Q. Did you sustain an injury on that date?

A. Thank God that I didn't.

Q. You did not have an injury so you put in a claim, is that it?

A. I put in a claim before I knew that I didn't have an injury, sir.

Mr. Faulkner: May I have that answer read?

(Testimony of Adam Thomas Andrade.)

(Answer read.)

Mr. Faulkner: Q. You put in a claim first and expected the injury to occur later, is that it?

A. No, sir. May I explain?

The Court: You may explain.

The Witness: I got hurt working for Nye & Nissen, that is, I though that I had got hurt, and I came—I went to an industrial doctor. It is Dr. Armstrong, at Third and Brannan, I think it is. This was either on a Friday or Saturday. I don't just recall. I went home, came to work the following morning. If it was on a Friday, I came to work on a Saturday, and if it was on a Saturday I came to work on a Monday, naturally, and I started to work at 7:30 or 8 o'clock in the morning, and I started to load—I forget now whether it was butter or eggs. So my side right in here commenced to hurt me. So I told Mr. Goddard about it. So he says, "Tom, you had better go down and see the doctor."

Mr. Faulkner: This can't be in explanation of a question I asked, your Honor. [3007]

The Court: Very well, proceed.

Mr. Faulkner: Q. Did you employ a lawyer named John E. Stewart, to represent you before the Industrial Accident Commission?

A. No, sir.

Q. Did you have a lawyer before the commission?

A. No, sir, I didn't. I was represented at the

(Testimony of Adam Thomas Andrade.)

commission through the local union, the Teamsters Local 85.

Q. You never heard of a man by the name of Stewart? A. John Stewart?

Q. Yes.

A. No, John Stewart is our secretary, sir. He isn't a lawyer.

Q. He was there representing you, wasn't he?

A. I don't know whether he was, or not.

Q. I will show you a paper and ask if you can identify this as a copy of the determination of the Industrial Accident Commission of the claim that you were making against the firm of Nye & Nissen in November or December, 1940.

(A document was handed to the witness, which he examined.)

The Court: Read the question.

(Question read.)

A. I can't identify it because I never seen it before.

Mr. Faulkner: Q. You have never seen it before? A. No, sir.

Mr. Faulkner: I will have the paper marked for identification.

The Court: It may be marked for purposes of identification. [3008]

(The document was marked Defendants' Exhibit CC for Identification.)

Mr. Faulkner: Q. Do you know a man by the name of Mr. Pineda? A. Yes, sir.

(Testimony of Adam Thomas Andrade.)

Q. By the way, Mr. Andrade, what is your nationality? A. Portuguese.

Q. In the year 1946 have you seen and talked to Mr. Pineda? A. Yes, sir, I have.

Q. How many times?

A. Oh, I would say about three times.

Q. Before you came into court you had talked to Colonel Hand, of the United States Veterinary Corps?

A. Before I came to court?

Q. Before you came into court this morning or this afternoon.

A. No, sir, I have not, outside of saying, "Hello" to him in the United States Attorney's office.

Q. On any of these occasions which you have referred to in your direct examination, was Colonel Hand an inspector for the Army?

A. No, sir.

Q. Did I understand you to say that you did not go to any officer or agent in respect to the firm of Nye & Nissen in the year 1940?

A. Will you please speak a little louder? I didn't get the beginning of your question.

Q. Did you go, after you left the employ of Nye & Nissen, whether your were fired or regardless of the manner in which you left, did you go to any Government agency and discuss [3009] with them any transaction in the firm of Nye & Nissen?

A. No, sir, I didn't.

Q. When was the first time you talked to any

(Testimony of Adam Thomas Andrade.)

Government agents about the affairs of Nye & Nissen?

A. It was around May of 1944.

Q. May of 1944.

A. Around there, yes, sir.

Q. Whom did you talk to then?

A. I talked to Mr. Magee.

Q. The gentleman who sits here in court?

A. Yes, sir.

Q. Did you thereafter talk to him every time?

A. Yes, sir.

Q. Did you talk with Mr. Johnson?

A. Yes, sir, I did.

Q. Any other Federal agents?

A. No, sir, not that I can recall.

Q. How many times do you think you talked to Mr. Magee or Mr. Johnson before you came into court here?

A. I would say about three times.

Q. And where?

A. I think it was twice I spoke to them at Pier 25 and down at the waterfront when I was employed by General Engineering & Drydock.

Q. Were both of them together at the time?

A. Let's see, I can't recall—if I recall correctly, I think I talked to Mr. Johnson once that he was present with Mr. Magee.

Q. Now, at the time of your direct examination, particular questions were asked you by counsel for the Government. Had you gone over the matter

(Testimony of Adam Thomas Andrade.)

of having those questions propounded to you before you came into court?

A. No, sir, I did not. [3010]

Q. Had you discussed the matters that were the subject matter of those with any Government officer before you came into court?

A. What do you mean by discussing?

Q. Just what I say.

A. I don't quite get the meaning of it.

Q. Mr. Pratt asked you if you remembered an occurrence.

A. That is right, he did.

Q. Occurring in a certain period of time in 1939.

A. He didn't mention no dates. He just asked me if I remember an occurrence, an incident.

Q. Are you talking about your testimony in this court, or something that occurred out of court?

A. I am talking about what happened out of court.

Q. I am asking you if when you were out of this courtroom if prepartory to your examination you discussed your testimony with Mr. Pratt.

A. No, sir, I did not.

Q. Did you, before you came into this courtroom, know in advance what questions were going to be asked of you?

A. No, sir, I didn't know what questions were going to be asked me.

Q. So that when a particular question, such as "How do you fix the time of this occurrence," and you answered it was the year of the Democratic

(Testimony of Adam Thomas Andrade.)

Convention, you did not know when you came in here that the question would be asked you in which you could give that answer, is that right?

A. I didn't know, no, sir. [3011]

Q. You have given certain testimony, Mr. Andrade, about your duties in that plant. You were a truck driver? A. Yes, sir.

Q. What period of time were you a truck driver?

A. Oh, as far as I can remember I guess, sir, 1935 or 1936, about the time that I left.

Q. When you drove a truck what time would your report to work in the morning?

A. It all depends what time Mr. Goddard would tell me he wanted his shipments out.

Q. Would you be there at five in the morning, eight in the morning, or what time would you usually come in?

A. Sometimes it was 7:30, sometimes 8, never later than 8.

Q. How many deliveries would you make a day?

A. Sometimes I would make two, sometimes I would make propably 25 to 50.

Q. How much of your day would be consumed in driving that truck, Mr. Andrade, in making those deliveries?

A. It all depended.

Q. Well, the normal day. Take the normal day when you were driving a truck in the year 1939 and 1940; how long would you be devoting your time to driving that truck?

(Testimony of Adam Thomas Andrade.)

A. Some mornings I would go out around the time of ten o'clock, come back in about eleven, wouldn't go out again before 12:30, which we went to eat at twelve o'clock and had half hour for lunch. That hour I would have I would work on the floor doing various jobs as scraping labels, nailing cases, labeling cases, helping work in the butter room, helping Menges on the bench. [3012]

Q. And then when you got up, went back to your truck, Mr. Andrade——

A. Then when we got through eating, Mr. Goddard seen fit for me to take a load out there, and at 12:30 I would—often I would go back and continue doing what I was doing before I went to eat.

Q. You were employed as—what was your status? Were you a teamster or a lumper?

A. I was a teamster.

Q. Were you paid a teamster's scale?

A. I was—not in the beginning.

Q. I mean in 1939. A. Yes, I was.

Q. In the year 1939, as I recall, you saw a stamp similar to this exhibit in the possession of Jack Smith, who was the vice president of Nye & Nissen, is that correct?

A. I didn't say Jack Smith, sir.

Q. You did not?

A. I am awfully sorry. No, sir.

Q. In whose possession did you see it in 1939—1938 to 1940? A. In whose possesion?

Q. Yes.

A. I seen it in the possession of Mr. Moncharsh,

(Testimony of Adam Thomas Andrade.)

Mr. Goddard, Mr. Berman, and Mr. Menges—in the possession—just may I ask what you mean—at all times?

Q. Did you ever see the stamp in the possession of Mr. Berman between 1938 to 1940?

A. Yes, I have seen him use it.

Q. And where? A. In the plant.

Q. At what time of the day?

A. At what time of the day?

Q. Yes.

A. That is pretty hard to say, what time of the day. [3013]

Q. Do you remember any particular instance when you say Mr. Berman use the stamp?

A. Not coming right down and saying the particular day, no, sir.

Q. Do you remember any particular transaction in which Mr. Berman used a stamp similar to this exhibit No. 175? A. Yes, I do.

Q. What year was it?

A. That was in the same incident that 500 cases of eggs for the Navy was being put up.

Q. Well, what year was it?

A. It was 1940, I think it was.

Q. You think it was in 1940?

A. I think so.

Q. What month?

A. I don't know what month it was, sir. It was about the middle of 1940.

Q. What?

A. About in the middle of 1940.

Q. It was about in the middle of 1940?

(Testimony of Adam Thomas Andrade.)

A. That is right.

Q. And in the middle of 1940 you saw Mr. Berman in the possession of this stamp, am I correct in that?

A. Yes, sir, that is right.

Q. Who were those eggs destined for, do you know?

A. Who were they what?

Q. Who were the cases to go to, do you know?

A. To the Navy.

Q. To the Navy? A. That is right.

Q. Had they been inspected by anyone?

A. The sample cases had.

Q. Now, you have referred from time to time to sample cases of eggs.

A. That is right. [3014]

Q. You mean that certain cases were taken by the Department of Agriculture Inspector and taken to candle, is that right?

A. You don't put that clear, sir.

Mr. Faulkner: May I have the question read?

(Question read.)

A. The sample cases were taken by the inspector.

Mr. Faulkner: Q. And who was the inspector?

A. Mr. Moosman mostly.

Q. Now, there were 500 cases involved, is that right? A. That is right.

Q. And how long did it take to inspect the 500 cases?

A. Well, as long as it took to make them up.

(Testimony of Adam Thomas Andrade.)

Q. How long did that take?

A. As I said before, around a week.

Q. About a week? A. Yes, sir.

Q. What quality of eggs were involved?

A. Incidentally, you must have been a special because——

Q. What?

A. Incidentally you must have been a special because that is what the stamp calls for.

Q. The stamp called for specials?

A. Yes, sir.

Q. Were they Medium or Large?

A. I couldn't say because I didn't open the cases.

Q. What color label did the boxes have on?

A. They had blue.

Q. A blue label? A. Yes, sir.

Q. Do you know what a blue label represented in the plant with [3015] respect to size?

A. Yes.

Q. What did it represent?

A. It represented a top grade.

Q. Top grade? A. Yes, sir.

Q. Did it have anything to do with size?

A. With size?

Q. Yes.

A. If they were marked so.

Q. What?

A. If they were marked so.

Q. So your opinion was from your experience

(Testimony of Adam Thomas Andrade.)

there that a blue label represented a top grade, is that right? A. That is right.

Q. What did a green label represent?

A. A green label is a Biddy Egg—Medium egg.

Q. What did it represent as to grade?

A. The label didn't mean anything according to grade.

Q. This was an order, at all events, that you observed, and how many times did you see Mr. Moosman come in and inspect eggs with respect to this 500-case order?

A. About twice a day.

Q. What? A. About twice a day.

Q. Twice a day? A. Yes.

Q. Over a period of about a week, isn't that right? A. That is right.

Q. So that he made about twelve inspections, is that right? A. That is right.

Q. During the period of time that you were there, the Department of Agriculture inspectors were in there every day, weren't [3016] they?

A. Not every day.

Q. On an average of five working days a week, how many days would a Department of Agriculture inspector be in that plant?

A. It would all depend how many Government contracts we had.

Q. Was that the only Government contract they had on this particular occasion?

A. I don't know, because I didn't go into Mr. Goddard's files.

(Testimony of Adam Thomas Andrade.)

Q. Then all that you really know was that on every day for a period of about five days that Mr. Moosman was in there inspecting eggs, is that right?

A. That is right.

Q. Now, at the time he commenced inspecting eggs, did you see any order for the Navy?

A. Not at the time he started inspecting eggs, no.

Q. Did you see an order for the Navy at any times? A. Yes, sir.

Q. What did the order say?

A. The order called for U. S. Specials.

Q. Tell me the circumstances, Mr. Andrade, where you in the course of your business as—that you described here, that the purchase orders from the Government would pass into your hands for inspection.

A. It wouldn't pass into my hands.

Q. When did you see the purchase order for the eggs?

A. On Mr. Goddard's desk.

Q. You saw it on his desk?

A. That is right.

Q. A moment ago you said you were not familiar with his file. [3017]

A. That is right, sir, I am not.

Q. But you were familiar with the purchase order for this quantity of eggs?

A. I seen it on his desk.

Q. Who was the purchasing agent for the order? A. The United States Navy.

(Testimony of Adam Thomas Andrade.)

Q. In other words, this was a purchase order of the United States Navy?

A. That is right.

Q. Are you sure of that? A. Yes sir.

Q. And what did the order say?

A. I didn't read it. I didn't go into reading the details.

Q. How many purchase orders from the United States Navy did the firm of Nye & Nissen have, we will say, in the middle of 1940?

A. That I couldn't tell you, sir.

Q. But you did see a purchase order?

A. That is right.

Q. And it calls for 500 cases of special eggs?

A. That is right.

Q. You do not remember the date?

A. I do not.

Q. What other orders were being inspected and filled by the firm of Nye & Nissen during this week when a Navy order was being inspected?

A. That I couldn't tell you. They were making a lot of eggs for city deliveries.

Q. Do you recall any other orders for any Government agency that was being inspected and filled during this week when you saw these Department of Agriculture men come in to inspect some eggs?

A. No, sir, not that I can recall. [3018]

Q. You do not recall that? A. No, sir.

Q. On the occasions that Mr. Moosman and his associates came in there how many cases of eggs—

(Testimony of Adam Thomas Andrade.)

did they come in in the morning or in the afternoon? A. Both.

Q. Both? A. That is right.

Q. You were there every morning when they came in? A. No, not every morning.

Q. Were you there every afternoon when they came in? A. Not every afternoon, no, sir.

Q. Do you know of your own knowledge how many times they were in to inspect the eggs on that 500-case order?

A. No, I told you that before, sir, that I do not.

Q. Then when you have testified that they came in twice a day, or whatever your testimony was, over a five-day period to inspect the 500-case order for the Navy, that is not based upon anything that you observed, yourself, is it?

A. Oh, yes, that is based upon something that I observed myself, yes, sir.

Q. Then did you observe these men inspect eggs that went to make up that order on the occasions you have testified?

A. Not on every time that they came in.

Q. Did you see them every time that they came in to inspect eggs in connection with the 500-case order to the Navy?

A. I seen them come into the plant and inspect the eggs for the Navy.

Q. And you saw them come in over a period of a week? [3019] A. That is right.

Q. And you saw them come in twice a day?

(Testimony of Adam Thomas Andrade.)

A. I didn't say I seen them come in twice a day. You asked how many times as an average.

Q. We will start all over. How many times did you see Mr. Moosman come into the plant of Nye & Nissen to inspect the eggs that went to make up a 500-case order in the year 1940?

A. Well, that is pretty hard for me to say, how many times he came in, but I seen him come in on various times at least once a day for that particular purpose.

Q. He came in then at least once a day for that particular purpose? A. That is right.

Q. Now, then, did he tell you he was coming in for that particular purpose?

A. He didn't tell me that he came in for that particular purpose, no.

Q. Did anyone else tell you that he came in for that particular purpose of inspecting eggs for a 500-case lot for the Navy?

A. Mr. Goddard used to tell me.

Q. He told you? A. That is right.

Q. He used to tell you?

A. That is right.

Q. Or he did tell you? A. He did tell me.

Q. Now, at the time of this incident, regardless of the time, it took the firm of Nye & Nissen at least a week to assemble a 500-case order of eggs, is that your testimony? A. That is right. [3020]

Q. Now, on the first occasion when Mr. Moosman came in, how many trays or flats of eggs were

(Testimony of Adam Thomas Andrade.)

presented to him in connection with that Navy order?

A. Well, definitely I couldn't say how many trays were presented to him, but it was all according to how many samples we could put up for the inspection.

Q. Mr. Moosman selected his own samples didn't he? A. For this particular order, yes.

Q. Now, then, he selected them out of a quantity of eggs, didn't he?

A. He didn't select a quantity of eggs, no, sir.

Q. I didn't say that. He selected his samples out of a quantity of eggs, didn't he?

A. That is right.

Q. Now, then, on the first occasion when he came in there he selected some samples, didn't he?

A. That is right.

Q. How many cases of eggs were there there on the floor that were tendered to him to take his samples out of?

A. There could be anywhere from 30 to 90 cases.

Q. Was it 30 or 90?

A. I don't recall off-hand.

Q. How many sample cases did he take?

A. How many did he look at?

Q. How many did he take off the pile and examine?

A. As far as taking off the pile—he don't take them all off the pile that he looks at.

Q. How many did he look at?

(Testimony of Adam Thomas Andrade.)

A. That, sir, I cannot answer. All I can answer is tell you how he looked at them. [3021]

Q. Pardon me?

A. All I can tell you is how he looked at them.

Q. How many cases did he look at?

A. I would say that he looked at about 10 cases of eggs.

Q. About 10 cases a day, is that right?

A. That is right.

Q. Do you remember, then, on the first occasion that he came in there, that he looked at cases of eggs?

A. I am not saying that it was the—that I remember the first time he came in that he looked at ten cases of eggs.

Q. What are you saying, Mr. Andrade?

A. What are you asking me, sir?

Q. What? A. What are you asking me?

Q. On the first occasion that he came in there did he take 10 cases of eggs and examine them in a candling booth or candle them?

A. Why are you talking about the first occasion?

Q. Because I prefer to.

A. You prefer to?

Q. Yes.

A. Well, the occasion—it seems like you want an occasion where this happened. This happened every day for about a week.

Q. All right, I am asking you on the first day when he came in there how many cases of eggs he took to candle.

(Testimony of Adam Thomas Andrade.)

A. I don't know how many cases he took to candle any more than I know how many cases he took the last time he was there.

Q. If I asked you the question of how many cases of eggs he candled on the second, third, fourth or fifth day, would you remember?

A. It is pretty hard to say how many he did candle. [3022] One time he might look at five. The next session he might look at ten. The following inspection he might only look at three.

Q. Is that what he did do?

A. Yes, sir, that is what he did do.

Q. So that on some occasions he looked at five, other occasions five, and other occasions three?

A. That is right.

Q. How long would it take him to candle five cases of eggs?

A. It would all depend on whether he was left alone or whether people talked to him.

Q. Was he left alone on this occasion of the Navy order? A. Very definitely.

Q. Did you remain in the plant while this man candled five or ten cases a day over a period of five days?

A. Did I remain in the plant continuously?

Q. Yes. Were you there all the time that he was candling those? A. Not all the time, no

Q. Going back to the first occasion, whether he candled three cases, five cases, or ten cases, when he had finished those cases what did he do? What did Mr. Moosman do in your presence?

(Testimony of Adam Thomas Andrade.)

A. He put the eggs back into the cases.

Q. And then what did he do?

A. Then he turned around and he told us to nail them up. He told me to nail them up.

Q. So that you were right there? A. Yes.

Q. And you were one of the men that he told to do this? A. Yes. [3023]

Q. And you remember the time?

A. I don't remember the time by clock.

Q. No, I don't mean the hour, but you remember the incident in 1940? A. That is right.

Q. How many cases did he tell you to nail up?

A. He just told me to nail up the cases that were open. I didn't count them.

Q. How many? A. I didn't count them.

Q. Did you nail them up? A. Yes.

Q. Then what did he do with the cases?

A. What did he do?

Q. Yes.

A. Nothing. He had nothing else to do with them.

Q. In other words, then, Mr. Moosman candled these cases, whether there were three or ten, and told you to nail them up, and what did he do? Did he walk out of the plant then?

A. No, sir, he handed me his stamp and ink pad for me to stamp them.

Q. For you to stamp them?

A. That is right.

Q. Did you stamp those cases?

A. Yes, sir.

(Testimony of Adam Thomas Andrade.)

Q. Did you stamp the lot of eggs that they came out of?

A. What do you mean did I stamp the lot of eggs that they came out of? That what came out of?

Q. That the sample cases came out of?

A. Yes, the 30 cases.

Q. Then all these samples came out of a lot of 30 cases, is that right?

A. That is right, they were all samples, all the 30 cases.

Q. Mr. Andrade; there was a tray with 30 cases of eggs on, is [3024] that right?

A. 30 sample cases, yes, sir.

Q. You keep saying 30 sample cases. There were 30 cases of eggs, weren't there?

A. 30 cases of sample eggs.

Q. How do you know they were samples?

A. Because I was told they were.

Q. Did you ever see the eggs in the box?

A. I seen them after Mr. Moosman looked at them, yes, sir.

Q. He did not look at 30 boxes of eggs, did he?

A. He didn't look at 30, but the flats he looked at.

Q. You saw those eggs? A. Yes, sir.

Q. Were they good looking eggs to you?

A. Yes, they were.

Q. He gave you a stamp and told you to stamp the trays, is that right? A. That is right.

Q. And before he left those premises had you stamped those 30 cases? A. Yes, sir, I had.

(Testimony of Adam Thomas Andrade.)

Q. Then what did you do with them?

A. Took them back in the icebox.

Q. All 30? A. All 30.

Q. Now, the next time he came what then did you do?

A. Maybe I didn't see him the next time he came.

Q. Did you see him after that?

A. Yes, I did.

Q. What did you do on that occasion?

A. On what occasion?

Q. On the next occasion you saw him.

A. I was working around where he was inspecting.

Q. Was he inspecting some eggs?

A. That is right. [3025]

Q. Now, had someone in the meantime come and told you, "Now, this is still the same order he was inspecting a few days ago"?

A. No, nobody told me.

Q. On that occasion did he have some cases laid out upon the floor of Nye & Nissen open?

A. Yes, sir, he did.

Q. Was he candling eggs? A. Yes.

Q. Did you select those eggs for him?

A. No, sir.

Q. Did he select them? A. No, sir.

Q. What? A. No, sir.

Q. Did he not select them? A. No.

Q. Mr. Moosman did not select his own cases?

A. Mr. Moosman did not select his own cases, no, sir.

(Testimony of Adam Thomas Andrade.)

Q. He did not? A. No.

Q. Who selected them?

A. Nye & Nissen's pet, Jim Nix.

Mr. Faulkner: Mr. Reporter, will you read that answer?

(Answer read.)

Mr. Faulkner: Q. Was he an animal, Mr. Nix?

A. Not exactly.

Q. In this operation Mr. Nix was selecting the samples for the Department of Agriculture inspectors? A. That is right.

Q. But on the first occasion Mr. Moosman selected his own, is that right?

A. The first occasion I selected them.

Q. You selected them?

A. That is right.

Q. So that this incident is one where a Department of Agriculture [3026] agent is in there and Mr. Andrade goes to the tray and selects the eggs that he is going to candle, is that right?

A. I broke down—you say "selecting." What do you mean by selecting? Will you please explain yourself? I have a very poor education.

Q. Mr. Andrade, a moment ago you said you selected the sample cases for Mr. Moosman.

A. What I mean by saying selecting sample cases, I broke down the eggs that he wanted. If you explain yourself, sir, I will try to explain myself the best way that I can possibly do.

Q. At all events, then, you did not select the samples for Mr. Moosman?

(Testimony of Adam Thomas Andrade.)

A. I broke down a flat for Mr. Moosman.

Q. And he selected the cases?

A. That is right.

Q. When did this pet come and select samples?

A. That was on the second occasion that I seen Mr. Moosman inspect the eggs for the same order.

Q. Did Mr. Nix select them for him?

A. Mr. Nix pulled them out of the pile for him.

Q. He pulled them out of the file?

A. He pulled them out of the pile.

Q. Pile? A. Yes.

Q. Who selected the eggs that were to be pulled out? A. I didn't notice.

Q. You did not notice? A. No.

Q. In other words, you and Mr. Nix, then, on this occasion, [3027] merely did the physical work of breaking down a pile of eggs for Mr. Moosman to inspect?

A. You are still not asking me the right question, kind of twisting it around a little bit.

Mr. Faulkner: May I ask the Court to direct the witness to answer the question if he understands it?

The Witness: I don't understand it.

Mr. Faulkner: Q. You don't understand it?

A. No, sir.

Mr. Faulkner: Will you read the question, Mr. Sweeney?

(Question read.)

The Court: Q. Do you understand that question?

(Testimony of Adam Thomas Andrade.)

A. I understand the question, yes, your Honor. But Nix and I didn't work the same cases together. That is what I am trying to explain.

Mr. Faulkner: Q. You did it on one day and Mr. Nix in your presence did it on the next day?

A. That is right.

Q. Is that right? A. That is right.

Q. Where did these eggs come from that Mr. Nix broke down the tray of eggs?

A. From the back of the plant.

Q. From the back of the plant?

A. By the candling bench.

Q. They had a blue label on?

A. No. If I remember correctly they were not labeled. They were blue prints.

Q. What? A. Blue print cases.

Q. Blue prints? A. Yes, sir.

Q. But the cases of eggs that you broke down had a blue label on them?

A. No, sir, I didn't say that. [3028]

Q. Did any of the eggs in the 500-case order have a blue label on them? A. No, sir.

Q. None? A. No, sir.

Q. But they had something blue on them, is that right? A. The regular blue "Biddy"——

Q. What?

A. The regular blue "Biddy" stamp on them.

Q. Blue "Biddy" stamp?

A. Not the stamp, the hen in the nest. You are familiar with the Nye & Nissen labels, are you not, sir?

(Testimony of Adam Thomas Andrade.)

Q. Did they have a blue label?

A. No, they didn't have a label, no, sir. The print of the hen in the nest is printed on the cleat—on the head of the case.

Q. On the case, itself?

A. On the head of the case, itself.

Q. And it was blue? A. That is right.

Q. On the occasion of filling this 500-case order over a five-day period, on each occasion when Mr. Moosman was finished with his inspection and candling of eggs, did he place the Department of Agriculture stamp on the case of eggs that he candled? A. The ones that I seen, yes, sir.

Q. Did he then place a Department of Agriculture stamp on cases of eggs out of which the sample cases that he had selected came? A. Yes, sir.

Q. When he was finished his work on that 500 cases of eggs, did he stamp 500 cases of eggs?

A. No, sir.

Q. How many did he stamp?

A. That I couldn't tell you, but to my knowledge of the whole transaction, I don't think the [3029] man had stamped over 150 cases of eggs.

Q. When Mr. Moosman came in there he knew what order he was inspecting for, didn't he?

A. That is right, he did.

Q. And he knew that he was inspecting for a 500-case order? A. That is right, sir.

Q. And it is your testimony that although he was inspecting for a 500-case order, and inspecting on five separate days, at least—— A. Yes.

(Testimony of Adam Thomas Andrade.)

Q. ——that he only stamped 150 cases of eggs?

A. I said actually stamped.

Q. What?

A. He actually stamped only 150 cases of eggs.

Q. Did anyone stamp any other cases in his presence? A. No.

Q. So that he only actually stamped 150 cases of eggs?

A. To his knowledge, sir, so far as being marked on his book, the inspections that he made, he stamped 500 cases. But that is not what you asked me.

Q. How many cases did he stamp?

A. He marked on his book that——

Q. I didn't ask you anything about his book. How many cases of eggs did Mr. Moosman stamp when he was in the plant of Nye & Nissen in your presence, on those five days?

A. Well, he thought he stamped 500.

Q. Did you see him stamp 500?

A. No, I didn't see him stamp 500.

Q. Did you see him stamp 100? A. Yes.

Q. Did you see him stamp 499?

A. No, sir. [3030]

Q. How many did you see him stamp?

A. You just asked me and I told you. I seen him stamp a hundred.

Q. And that is all you saw him stamp?

A. That is not all I seen him stamp, but if you will let me explain to the jury and the court, maybe I can explain myself.

(Testimony of Adam Thomas Andrade.)

The Court: You may explain your answer.

The Witness: What I am trying to say is, whenever Mr. Moosman came to inspect these eggs for this order there would be one flat of 30 cases or two flats of 30 cases or 3 flats of 30 cases, which in this instance now where I was saying I seen him stamp 100 cases, actually it wasn't 100, it was 90. It was three flats of 30. These same eggs, as I explained before, would be inspected by the Department of Agriculture by Mr. Moosman. We would stamp, which I did stamp some of them for him, we would take them, which I personally did, under the instructions of Mr. Goddard and Mr. Moncharsh——

Mr. Faulkner: This is not an explanation of the question, your Honor.

The Witness: Yes, sir.

The Court: I told him he may explain his answer. He may explain it.

Mr. Faulkner: You Honor, I did not ask him a question of which this is an explanation.

The Court: The court has ruled.

Mr. Faulkner: I except to the court's ruling that permits [3031] the witness to ramble on the witness stand.

The Court: Proceed.

The Witness: These eggs would go back into the icebox and we would scrape the stamp off of them that Mr. Moosman had put on them. The next inspection at two o'clock. This was the morning inspection—the next inspection at two o'clock in the

(Testimony of Adam Thomas Andrade.)

afternoon, when Mr. Goddard called up Mr. Moosman for an inspection for the same order, we would draw the same eggs that he had looked at in the morning out of the icebox, put them up by the office, and he would look at the same 90 cases again. That is what I am trying to explain.

Mr. Faulkner: Q. Have you finished?

A. Yes, sir, I have.

Q. Don't you know, Mr. Andrade, that when an inspector of the Department of Agriculture inspects a case of eggs that he draws out a hundred eggs at least from each box?

A. 100 eggs, sir?

Q. Yes.

A. He draws out one layer out of each side. He might go down two layers, he might go down three layers, he might go clean to the bottom and get the last three dozen. He sets it off on a table. He puts the other four layers back into the case. He goes over on the other side. He might take the middle. That is six dozen out of one case. That is the way that Mr. Moosman—and that is the way that most of the Department of Agriculture inspectors, at the time that I was with Nye & Nissen, from 1935, right up to the time of [3032] 1940 that I left.

Q. And when they do that they take the eggs that they candle and they put them in a particular place in those fillers; put the AA eggs in one place, the A eggs in another place, and the Checks and the various grades of eggs in that case to one side, so that the moment that they saw the same eggs

(Testimony of Adam Thomas Andrade.)

again they would see their own handiwork in arranging the eggs in the case, is that not true?

A. No, sir, that is not true.

Q. Did you ever watch Mr. Moosman——

A. May I explain, please? You asked me a question.

Q. I asked you if that was correct, or not.

A. That is not correct. May I explain why it is not correct?

Q. No.

The Court: If you want an opportunity to explain you may explain.

Mr. Faulkner: Your Honor, it is not a question.

The Court: The court has ruled.

Mr. Faulkner: Exception to the ruling to explain an answer that has no explanation.

The Witness: It is an explanation.

The Court: The witness asks for an opportunity to explain. The court is allowing him an opportunity to do that.

Mr. Faulkner: I take an exception.

The Court: Note an exception. You may explain.

The Witness: Thank you, your Honor. The only reason [3033] why that would not work, ladies and gentlemen, is due to the fact, as the gentleman said here, they would put—they would grade the eggs accordingly. You filler has holes enough for three dozen eggs. When an inspector is candling the eggs, if he is inspecting legitimately, all he he uses is two eggs in each hand. He rolls one egg around the

(Testimony of Adam Thomas Andrade.)

other. He goes up to the light—the light has a little hole about that big (indicating), which the one end of your egg fits in—it is always the large part and not the low part, because you can't see nothing. The egg is perfect on one side of the egg. He puts his eggs as he candles them right down in these lower holes. He might put, as the gentleman said, which he is correct, he might put a layer here, put checks here, and put Standards on his side, right down the line. But when we put them eggs back in the cases, they don't go back where he took them from. They don't go back down to the bottom. They get up on top. So when the cases come back for the second inspection, he goes through the same routine of digging down into the bottom, or digging in the middle, and he will never touch that same layer of eggs. That is what the gentleman is trying to explain, which is absolutely wrong, sir.

Mr. Faulkner: Q. When Mr. Moosman has finished his inspection of the eggs there in his candling process, they are put back in the box, aren't they? A. That is right.

Q. Who puts them back?

A. We all do, whoever may be helping [3034] him.

Q. Doesn't Mr. Moosman put them back himself?

A. No, he does not, unless he is working alone.

Q. If he has a helper then calls on you people?

A. If he has a helper he does very little but just put the egg up to the candling light.

(Testimony of Adam Thomas Andrade.)

Q. And after he is through with them where does he put them?

A. Where does he put them?

Q. Yes.

A. He puts them over to the side, to the man that is working with him.

Q. He puts them in the filler, doesn't he?

A. They are in the fillers, yes, but he takes that filler and puts them in the cases.

Q. Who does?

A. The man that is working with him, not Mr. Moosman.

Q. Then it is the Department of Agriculture man who puts them back in the cases?

A. No, sir, not the Department of Agriculture man, but a man that goes down from Nye & Nissen with instructions from Nye & Nissen to help Mr. Moosman with his inspections.

Q. Then is it your testimony that when Mr. Moosman was inspecting eggs in the plant of Nye & Nissen that Mr. Moosman would candle the eggs, and that then some employee of Nye & Nissen would touch those eggs in the course of his inspection?

A. Not in the course of his inspection, no, sir. After he [3035] got through with his inspection.

Q. After he got through what was the status of the eggs that he had selected for candling? Would the eggs be on the floor? Where would the eggs be when he got through inspecting, we will say, five cases of eggs?

(Testimony of Adam Thomas Andrade.)

A. Some cases would be on the floor. Other cases would still be on the pile.

Q. Where would the eggs be? Would the eggs be on the floor or in the cases?

A. The eggs that he, himself, looked at?

Q. Yes.

A. They would be on top of the desk.

Q. On top of what? A. A desk.

Q. Then when he got through inspecting he would leave those eggs on top of a desk?

A. No, sir.

Q. Where would the eggs be when he left and finished his candling on a particular transaction on this Navy order?

A. Before he left the eggs would be in the case.

Q. And who would put them in the case at that time? A. Whoever was working with him.

Q. Would any employee of Nye & Nissen put the eggs in the case at the time that he was candling them, or immediately after he was finished?

A. Yes, sir.

Q. And would he observe them put them in?

A. There was no reason for him to observe.

Q. Did he stay and observe him put them in?

A. The only reason he had for staying there was to take the stamp with him after we got through stamping them. [3036]

Q. What?

A. The only reason he would have to stay after he made his inspection was to wait for us to nail

(Testimony of Adam Thomas Andrade.)

the cases and stamp the cases so he could take the Department of Agriculture stamp with him.

Q. Then he would wait there until those eggs were returned to the cases, nailed up, and stamped, is that right? A. That is right.

Q. Then he would go over and stamp a group of eggs that the samples came out of; that is right, isn't it? A. I just got through saying——

Q. Is that correct?

A. You are not asking me the right questions. I am awfully sorry. I am trying to cooperate with you as much as possible.

Q. When he was through stamping the sample cases, did he then go over to stamp the cases out of which the samples came?

A. We did. He did not.

Q. Did he give you the stamp for that purpose?

A. Yes, sir.

Q. And how many cases in all did you stamp or presume to stamp in his presence?

A. In his presence?

Q. Yes. A. At that instant?

Q. In the 500-case order for the Navy.

A. Oh, I would say that I helped him about, oh, three times.

Q. And how many cases of eggs did you stamp?

A. I would say 90, 120—about 150.

Q. About 150? A. 150 cases. [3037]

The Court: May I inquire about how much further time you wish, Mr. Faulkner?

Mr. Faulkner: Well, your Honor, part of my

(Testimony of Adam Thomas Andrade.)

examination will depend upon an examination of our records, which you Honor can appreciate we could not anticipate; in other words, if a particular date had been indicated by the witness we would have phoned about these orders, but we have to go through and see whether there was anything even resembling these orders at this time.

The Court: My inquiry was how much time do you wish?

Mr. Faulkner: Well, if I find the orders——

The Court: I was hopeful we would get through today.

Mr. Faulkner: I was very hopeful, and I would think I would complete with the witness, your Honor, in an hour after I have the orders.

The Court: But you want an opportunity to check, do you?

Mr. Faulkner: Yes, your Honor.

The Court: Very well, then, I will excuse the jury until ten o'clock on Tuesday morning. Keep in mind the admonition of the court. The jurors may be excused.

(An adjournment was thereupon taken until Tuesday, March 19, 1946, at ten o'clock a.m.)

Tuesday, March 19, 1946, 10:00 o'clock a.m.

The Court: Call the roll of the jurors.

(Roll called.)

The Clerk: All present.

ADAM THOMAS ANDRADE,

recalled.

Cross Examination (Resumed)

Mr. Faulkner: Q. At the adjournment of the court on Friday, Mr. Andrade, I was asking you some questions about an order for 500 cases of eggs delivered to the Navy. Do you remember that subject? A. Yes, I do.

Q. When was that, Mr. Andrade?

A. 1940.

Q. What part of the year?

A. Oh, about the middle of 1940.

Q. At sometime you described in your cross examination on Friday certain transactions in relation to how those eggs were assembled for delivery. Do you recall that?

A. I don't think we discussed the subject before delivery?

Q. Do you remember that?

A. I don't quite get your question.

Q. I will withdraw the question. I don't think you followed it. I do not want to go over the same testimony we went over on Friday. You recall you testified to how 500 cases of eggs were prepared for delivery down to a certain pier, is that right?

(Testimony of Adam Thomas Andrade.)

A. That is right. [3039]

Q. Did you deliver those eggs to the pier?

A. The——

Q. 500 cases of eggs? A. Yes, sir.

Q. Did you deliver all of them?

A. Yes, sir.

Q. In how many trips?

A. Well, there was 150 cases to each trip.

Q. Now, when you started to deliver the cases to the pier had 500 cases of eggs been assembled on the floor of Nye & Nissen? A. Yes, sir.

Q. Were they all stamped? A. Yes, sir.

Q. And they were all stamped "Specials," is that right? A. Yes, sir.

Q. They were on flats or trays?

A. They were on boards, on flats.

Q. Boards and flats. When you took the first load down to the pier whom did you deliver them to?

A. Delivered them to Pier 32, Matson Navigation Company.

Q. Pier 32? A. That is right.

Q. So that these 500 cases was a delivery to Pier 32 of the Matson Navigation Company?

A. That is right.

Q. Now, who received the eggs?

A. The clerks on the dock.

Q. Was there any Department of Agriculture inspector there at that time?

A. Not at that time, no sir.

Q. When you delivered the second batch of eggs

(Testimony of Adam Thomas Andrade.)

was there a Department of Agriculture inspector there? A. I can't recall that there was.

Q. When you delivered the third batch——

A. I can't recall that there was.

Q. Were those eggs inspected in your presence as the driver of the truck for Nye & Nissen at the pier? A. At the pier?

Q. Yes. A. No, sir.

Q. So that this transaction, at all events, was a delivery at a Matson pier, Pier 32, and no Department of Agriculture agent handled the eggs before you got a receipt for them, is that right?

A. The Department of Agriculture handled the eggs at the plant of Nye & Nissen.

Q. Yes, at the point of destination on the pier.

A. Not at the point of destination, the point where we loaded the eggs—not where we delivered them.

Q. Not where you delivered them?

A. No, sir.

Q. I don't mean "we". I mean you, personally.

A. Not where I delivered them, no sir.

Q. At the time that you took the 500 cases of eggs off the floor of Nye & Nissen to take down to that pier were you personally present to see and observe everyone of those cases stamped?

A. To see if they were all stamped?

Q. No, were you present when they were all stamped? "Yes" or "No", please.

A. Yes.

Q. When were they stamped?

(Testimony of Adam Thomas Andrade.)

A. They were stamped at various days.

Q. And you were present when each one was stamped? [3041]

A. Well, if you want to come down to facts, so far as each one was concerned, I probably wasn't looking when they were stamped, but I was there when the men were stamping them.

Q. You mean that you were at work that day, don't you?

A. Not at work, in the presence of the procedure of stamping the cases.

Q. So that in addition to the other things that you observed you actually observed someone stamping those 500 cases of eggs which you ultimately in three trips delivered down to Pier 32, is that right? A. That is right.

Q. Now, who stamped them?

A. I stamped them.

Q. You stamped some?

A. James Nix stamped some.

Q. Who?

A. James Nix, and Mr. Goddard stamped some. And Mr. Moncharsh stamped some.

Q. The president of the company?

A. That is right.

Q. He stamped some of the 500 cases?

A. Yes.

Q. Now, you recall testifying, Mr. Andrade, to a transaction involving a thousand cases of eggs?

A. I do.

Q. Delivered to the Navy? A. Yes, sir.

(Testimony of Adam Thomas Andrade.)

Q. When was that? A. That was in 1939.

Q. What part of the year?

A. About the middle part of 1939.

Q. What pier were they delivered to?

A. 56.

Q. 56?

A. There is two piers of 56. One is the annex and the other is Pier 56.

Q. Which one was it?

A. Pier 56, not Pier 56 Annex. [3042]

Q. Well, it was Pier 56 and not the annex, is that it?

A. That is right. There is two 56's

Q. You have been over there many times, haven't you?

A. Ever since I worked for Nye & Nissen from 1932 up to the time I quit.

Q. You know where all the piers are, don't you?

A. That is right.

Q. You testified that you delivered part of those eggs to that Pier 56; do you recall that testimony?

A. Yes, sir.

Q. How many loads did you take?

A. How many loads did I take?

Q. Yes.

A. Well, I couldn't count how many loads I took, for the simple reason that we had an extra truck at Nye & Nissen's plant and I drove one truck. While I went down to the deck to unload the eggs, Mr. Goddard would have some of the help load some of the eggs, and I would back in,

(Testimony of Adam Thomas Andrade.)

my truck, and take this particular truck already loaded down there. I can't give the amount, loads that I took.

Q. You had no trouble fixing the number of loads when Mr. Pratt asked you the question, Mr. Andrade.

A. What I am trying to point out to you, sir, is, you asked me a blanket question of how many loads. I think I said I took seven or eight loads down.

Q. Do you still think that? That is what you thought Friday. Do you think that on Tuesday?

A. That is right, sir. [3043]

Q. Now, you took seven or eight loads down to that pier. At the time that these eggs were assembled for delivery were there on the floor of Nye & Nissen's plant on Townsend street 1000 cases of eggs? A. Yes, sir.

Q. Had all of the inspections been completed?

A. Yes, sir.

Q. Had all of the inspections of the 1000 cases taken place in your presence? Answer "Yes" or "No," please. A. Just a minute, please.

Mr. Faulkner: I ask the court to direct the witness to answer "Yes" or "No" and then explain. I asked him——

The Court: Just a moment.

Mr. Pratt: I object to that, if the Court please. I do not think it is susceptible, apparently, from the——

The Court: Read the question, Mr. Reporter.

(Question read.)

(Testimony of Adam Thomas Andrade.)

The Court: You may answer "Yes" or "No," and then explain your answer if you wish.

A. No. I was not present at all the inspections.

Mr. Faulkner: Q. How many cases of eggs did you see inspected by a Department of Agriculture inspector named Moosman in relation to that 1000-case lot of eggs, that order in 1939 that was delivered to the Navy?

A. How many cases did I see him inspect?

Q. Yes.

A. Well, I seen him inspect for that particular lot of eggs an average of twice a day, which I stated before. [3044]

Q. I didn't ask you how many times a day you saw him inspect, Mr. Andrade. I said how many cases of eggs did you see him inspect?

A. Then if you put it that way, I would say that I seen him inspect the whole lot.

Q. In other words, is it your testimony now that you saw him inspect the entire lot of eggs?

A. My testimony is the same as I gave it to you the other day, but when you cross-examined me, due to the fact that——

Mr. Faulkner: I submit, your Honor, I do not have to argue with the witness. I am entitled to a fair answer, and an easily-answered question.

The Court: Read the question, Mr. Reporter.

(Question read.)

Mr. Faulkner: I think I am entitled to an answer to that question.

The Witness: Your Honor——

(Testimony of Adam Thomas Andrade.)

The Court: Just answer that in your own way. Read the question again, so there will be no mistake about it.

(Question re-read.)

A. As I said before, I seen him inspect a whole lot of eggs when he was there for inspections, which I was there in the plant practically all the time when he was there fixing inspections. But as far as seeing him inspect every case of the thousand cases, I didn't see him inspect the whole thousand.

Mr. Faulkner: Q. How many cases did you see him inspect?

A. I cannot put a number to it, sir.

Q. Did you see him inspect 500 cases?

A. I still say, sir, that I cannot put a number to it.

Q. Did you see him inspect a hundred cases?

Mr. Pratt: I object.

The Court: The objection will be sustained. He said he is unable to state.

Mr. Faulkner: Q. You cannot fix the number, is that your testimony?

A. I can fix the number if you ask me to fix a number if I tried to go back and tried to figure how many inspections I helped the man with, yes. Is that what you want, sir?

Q. Mr. Andrade, what other orders were the Department of Agriculture inspecting eggs for in the plant of Nye & Nissen in the week end and a half that they were inspecting eggs for this 1000-case order for the Navy, if you know?

(Testimony of Adam Thomas Andrade.)

A. They inspected other various orders there, such as the University of California, such as the shipments going to C. C. camps, such shipments as going to various other places, like directly orders going to the Matson Navigation Company which called for an 85 percent special order, such orders as they—you are trying to insinuate, sir, I did not see a certain amount of cases inspected for that particular order. You are not—I did see the amount of cases that the inspector [3046] inspected, the ones that I helped with and seen Mr. Nix help him with, which I would roughly say was an estimate of 500 cases to 600 cases of eggs.

Mr. Faulkner: That is not responsive to the question, your Honor. I asked him a simple question and then he talks and talks. I ask that it all go out as not responsive.

The Court: Read the question and the answer.

(The reporter read the last question and the answer up to page 3046, line 23.)

The Court: Just a moment. That part of the answer may go out. Proceed.

Mr. Faulkner: Q. Now, in the morning when you would see a Department of Agriculture man in the plant inspecting eggs, how would you know whether he was drawing samples for the inspection for Honolulu, C. C. camps, the University of California——

A. I didn't say what I did.

Q. Then when you would come into the plant in connection with your duties as a driver you would come into a plant that was about 240 feet long from Bluxome to Mission Street, isn't that right?

(Testimony of Adam Thomas Andrade.)

A. I beg your pardon. It isn't on Mission Street.

Q. I mean Townsend. You are absolutely right, Mr. Andrade. It is on Townsend Street.

A. That is right, sir.

Q. With that direction, from Townsend to Bluxome, there, you would park your car where on Bluxome or on Townsend?

A. On Townsend—not on Townsend Street. I beg your pardon. [3047] I would park the truck in the Nye & Nissen plant.

Q. In other words, they had a method of construction there that permitted you to back your truck in front?

A. They have stalls for the truck.

Q. When you entered the premises you entered, Mr. Andrade, a premises that extended to the street in back of Townsend street, isn't that right?

A. What, sir?

Q. And you were making, during that period of time, from two to fifty deliveries a day?

A. Just a-minute, sir.

Q. Am I correct in that?

A. I didn't get the question you asked me before.

Q. During this period of time you were making two to fifty deliveries a day, is that right?

A. The one before that I didn't answer.

Mr. Faulkner: May the question be read?

The Court: Read it, Mr. Reporter.

(The Reporter (reading): "Q. When you entered the premises you entered, Mr. Andrade, a

(Testimony of Adam Thomas Andrade.)

premise that extended to the street in back of Townsend Street, isn't that right?")

Mr. Faulkner: Q. The premises in which this plant of Nye & Nissen was located extended from Townsend to Bluxome Street?

A. That is right.

Q. When you drove your truck up to these premises you drove it to a place of business which was almost a block long or a block long, that is, from Townsend to Bluxome? [3048]

A. I drove the truck to, I would say, 75 feet from the sidewalk to the platform.

Q. You would go into those premises after you had done your morning delivery work, isn't that right?

A. No, sir, I went there before I done my delivery work.

Q. What?

A. I went into the premises before I done my delivery work.

Q. And then you would go out and do your delivering, wouldn't you?

A. Not all the time.

Q. Did you go out at all during that week and a half and make any of the two to fifty deliveries you spoke of on your direct examination?

A. Some.

Q. Now, then, were there days when you did not go out at all?

A. Not until about 12:30 or 1:00 o'clock.

Q. What is that?

(Testimony of Adam Thomas Andrade.)

A. Not until about 12:30 or 1:00 o'clock.

Q. Was there any day during the period of time that a thousand cases of eggs was being assembled for the Navy that you did not go out to perform your regular duties of making two to fifty deliveries a day? A. Yes.

Q. Was there any day that you did not go out of the premises in your truck at all?

A. Yes, some.

Q. What day was that?

A. I don't recall.

Q. But you know it was during a period that they were assembling eggs for the Navy?

A. You asked me if I did at that time and I said yes. [3049]

Mr. Faulkner: Your Honor, I submit that that go out.

The Court: Read it, Mr. Reporter.

(Question and answer read.)

The Court: Let the question and answer stand. Let us proceed.

Mr. Faulkner: There is no answer to the question. He is arguing with me.

The Court: Let the record stand.

Mr. Faulkner: Q. Now, at the time that you came into those premises, either before you went out on your truck, or after you had been on your truck and came back, and you saw members of the Department of Agriculture inspecting eggs in that plant, how did you know to whom the eggs were going that they were inspecting?

(Testimony of Adam Thomas Andrade.)

A. Because I was told.

Q. You were told? A. That is right.

Q. And who told you? A. Mr. Goddard.

Q. What did he say?

A. He told me to inspect—to help Mr. Moosman with the inspection.

Q. What inspection?

A. For this particular Navy order.

Q. So that the situation in that plant, then, Mr. Andrade, was that the Department of Agriculture were inspecting for various shipments, but you were specifically told to help them in connection with the Navy order, is that right?

A. That is right.

Q. And you did help them?

A. That is right. [3050]

Q. Now, what did you do to help the inspectors in the Navy order?

A. I told you Friday, sir—you asked me the same thing.

The Court: Answer the question.

The Witness: I told him, your Honor. I told the jury, which I am going to tell the same thing. I helped the inspector break down the eggs, which was a flat of samples, and after he got through, put the eggs back into the cases, nailed the cases, and then stamped the cases. After we stamped the case we took the flat of eggs into the icebox, scrampled the stamp off of them, and re-used them. The same testimony.

(Testimony of Adam Thomas Andrade.)

Mr. Faulkner: Q. You did that solely in respect to the Navy order, is that right?

A. Not just solely and respectfully——

Q. I mean at that time.

A. Just a minute, please. Will you let me answer, sir? You asked me a question and I would like to answer.

Mr. Faulkner: Your Honor, I submit I am entitled under the law on the cross-examination of a witness to ask a question and receive an answer.

The Court: Just a moment. He did not conclude his answer. Read the question and let him conclude his answer.

(Question read.)

The Witness: Solely to every order that we put up.

Mr. Faulkner: Q. Then in that time of this week and a [3051] half you were not only scraping labels from the Navy order, you were scraping labels from the Conservation Camp orders, you were scraping labels from the orders of the University of California, and you were scraping labels from the orders that Nye & Nissen were sending to themselves in Honolulu, is that right?

Mr. Pratt: I object to that.

A. No, sir.

Mr. Faulkner: What did he say?

Mr. Pratt: That is not his testimony.

Mr. Faulkner: I will ask counsel for the Government to tell me what he has said and then we can shorten this examination.

(Testimony of Adam Thomas Andrade.)

The Court: There is no necessity for any discussion, gentlemen. Let us proceed with this case.

Mr. Faulkner: Q. Is that correct?

A. That is not what I said, sir.

Q. I will ask you again: In the week and a half that they were preparing a thousand cases of eggs for the Navy you have testified this morning that you took cases of eggs that had been inspected by the Department of Agriculture and took them in the Frigidaire or icebox some place and scraped the labels off?

A. For this particular order, yes, sir.

Q. I asked you if that was the only order you scraped labels off and you said no, you were doing it for all the orders. [3052]

A. I did not, sir.

Q. All right, then the situation was in that week and a half the only order you were scraping labels on was the Navy order, is that right?

A. No, sir.

Q. What other orders were you scraping labels on? A. As far as scraping——

Q. In the week and a half that they were filling the Navy order.

A. I can't recall what other orders I did scrape, but I do recall the Navy order. If that is what you are asking me, I do recall the Navy order for the simple reason—I will tell the court why—because Mr. Goddard or Mr. Moncharsh seen that there was only a certain amount of employees, which was myself, Mr. Nix, Mr. Henry Pineda, and themselves,

(Testimony of Adam Thomas Andrade.)

that were allowed to work this way, because they didn't want anybody else that come into the plant to do that kind of work, because they weren't steady employees. This particular Navy—the jury, as well as yourself, sir—the responsibility of having somebody do that kind of work that knew how to do it without mumbling, that was my duties as well as Jim Nix, which on your Friday cross-examination, sir——

Mr. Faulkner: I ask that this go out as not responsive to the question.

The Court: It may go out and the jury will disregard it. Proceed.

Mr. Faulkner: Q. In this week and a half, Mr. Andrade, [3053] when they were assembling a thousand cases of eggs, the inspectors were in the plant of Nye & Nissen to inspect other orders, were they not? "Yes" or "No," please.

Mr. Pratt: I object to that. That is repetition. He has asked the same thing before.

Mr. Faulkner: I hope to get an answer, Mr. Pratt.

The Court: Much of this testimony is argumentative. Now, with that thought in mind let us proceed.

Mr. Faulkner: Q. Did you in the week and a half that Nye & Nissen was preparing an order for the United States Navy scrape any label off any case of eggs that bore a Department of Agriculture stamp that was not to go to the United States Navy? A. Not that I can recall, no, sir.

(Testimony of Adam Thomas Andrade.)

Q. When you started to deliver a part of that thousand cases to the waterfront, were there a thousand cases of eggs assembled on the floor of the plant of Nye & Nissen, each of which bore a Department of Agriculture stamp?

A. Yes, sir.

Q. And you started to deliver from that pile of eggs? A. That is right.

Q. To Pier 56? A. That is right.

Q. And the morning that you started to deliver, where were the other thousand cases of eggs that the Department of Agriculture had stamped?

A. I just told you. Well, your Honor——

The Court: Answer the question. [3054]

A. I can't answer it that way, sir.

The Court: Just a moment. Read the question.

(Question read.)

Mr. Pratt: I object to that because it is not based on any testimony that there were a thousand cases that had been stamped. His testimony is that a quantity of thirty cases would be stamped, and then he would scrape the stamps off of those, and that the inspector would inspect and stamp the same cases again. Then, again, the stamps would be scraped off and again the same thirty cases would be inspected by the inspector. So there is no testimony that there were a thousand cases that were stamped by the inspector except for the fact that the same cases were stamped repeatedly, over and over again.

(Testimony of Adam Thomas Andrade.)

Mr. Faulkner: I will submit the question, your Honor.

The Court: I suggest that you reframe your question. Proceed.

Mr. Faulkner: Q. There are a thousand cases of eggs on the floor of Nye & Nissen which you commenced to deliver to Pier 56, all with a Department of Agriculture stamp. Were you present when the Department of Agriculture stamp was placed on those thousand cases of eggs by any employee of Nye & Nissen? A. Yes, sir.

Q. Were you present when they were all placed on there?

A. No, I couldn't say that I was. [3055]

Q. Then you were present when part of the stamps were placed on them?

A. That is right.

Q. Who placed the stamps on them?

A. I did some, Mr. Goddard, Nix, Mr. Berman done some.

Q. Mr. Berman? A. Yes.

Q. When you started to deliver eggs from that pile of cases on the morning that you started to deliver, the first morning, they were eggs stacked on the floor of a thousand cases. Now, where were the eggs that the Department of Agriculture men had placed their stamp on? Where were they?

A. Some of them were in the icebox, some of them had been delivered to other orders.

Q. For other orders?

A. For other orders, yes.

(Testimony of Adam Thomas Andrade.)

Q. Had they been delivered by you?

A. No, not that I can say.

Q. Can you tell me some place that a single case of eggs that the Department of Agriculture had stamped and had inspected in that plant, where they went to?

A. No, I can't tell you that, no, sir.

Q. Why?

A. Because they did not have the Department of Agriculture stamp on them.

Q. All of these cases, a thousand of them, bore a Department of Agriculture stamp with the word "Special" on them, similar to the one here in the record, is that right?

A. The ones that I delivered, yes, sir.

Q. And the ones that you saw?

A. Which ones? [3056]

Q. Well, you delivered some of them, but you saw those thousand cases? A. That is right.

Q. And you delivered some of them to Pier 56?

A. Yes, sir.

Q. Now, did you see a purchase order for these eggs?

A. No, I did not see a purchase order.

Q. Did you see any documents relating to those eggs? A. Yes, sir.

Q. What was the document about? What did it say?

A. The document specified the grade of eggs.

Q. Yes.

A. And also had the same, similar stamp, as

(Testimony of Adam Thomas Andrade.)

you call it there, stamped on the invoices which—I don't remember correctly now which name at the time Nye & Nissen was using. It wasn't used under Nye & Nissen, I think, if I remember correctly, it was Martin Reed, from Davis Street. At one time it used to be C. H. Summers. That is the documents that I seen.

Q. Now, you took those to Pier 56?

A. That is right.

Q. What happened when you got to the pier, in respect to the eggs that you delivered?

A. I didn't inspect the eggs for delivery.

Q. I say, what happened to the eggs that you delivered at the pier? What occurred in respect to those eggs when you delivered them?

A. What happened to them?

Q. Yes.

A. We unloaded them on the dock.

Q. Who was there? A. Navy men. [3057]

Q. Who else?

A. I think, at this particular time, Mr. Pineda was with me.

Q. Who? A. Henry Pineda.

Q. Who was there representing the Government? The Navy? A. The Navy?

Q. Yes.

A. The officers of the ship that had charge of the receiving end of it.

Q. What happened to the eggs? Now, you took them down to the dock. What happened to them?

(Testimony of Adam Thomas Andrade.)

A. Your Honor, in order for me to answer the question——

Q. In your presence.

A. Yes. In order for me to answer the question I have to explain, if I may be permitted.

Mr. Faulkner: Your Honor, I submit I asked him what happened to some eggs in his presence on a ship.

The Court: State, if you know, what happened.

The Witness: I do know what happened.

The Court: Tell the jury.

Mr. Faulkner: Q. In your presence.

A. In my presence?

Q. Yes.

A. These loads of eggs that I took down to the dock, why, I happened to know this incident was, the idea was to get the eggs down there.

Mr. Faulkner: I submit this is not responsive, your Honor.

The Court: Not what the idea was. State what was said and done, if anything, what you saw. Tell the jury. [3058]

The Witness: The eggs were being unloaded on the ship. This last load that I made to the dock was after lunch, which the inspectors had been down there before, but they weren't supposed to be there at the time I made this delivery.

Mr. Faulkner: I submit that is not responsive to the question.

The Court: What they were not supposed to be may go out.

(Testimony of Adam Thomas Andrade.)

The Witness: They weren't, then, they were not at the point of the delivery. But they were on this load of eggs that I had on my truck. The inspector got hold of it and it was a lot of eggs on this order that naturally he hadn't looked at.

Mr. Faulkner: I ask that that go out, your Honor. That is not what happened in his presence.

The Witness: That is what happened in my presence, sir.

Mr. Faulkner: I submit——

The Court: Proceed. Allow the witness to answer. He insists that is what he saw.

The Witness: That is what happened in my presence.

The Court: Just a moment. Allow him to conclude his answer.

Mr. Faulkner: I submit, your Honor, that is not his testimony. He said, "These eggs naturally he had never seen."

The Court: Let him conclude and then you may object and note your exception.

Mr. Faulkner: Exception. [3059]

The Witness: These eggs I did see, because I loaded them on the truck, myself, 150 cases of them, and the inspector, as he pulled them off the load, he told me, he said, "Tom, bring me some of those eggs. I want to inspect them," which he did. The eggs didn't pass. So I loaded the eggs that I already had unloaded, which was half the load, loaded them back onto the truck, and I brought them back to Nye & Nissen's plant, and

(Testimony of Adam Thomas Andrade.)

Mr. Goddard asked me what was wrong with the eggs, and I told him——

Mr. Faulkner: Your Honor, I asked him what happened at the wharf. Now we are back at the plant and he is talking to Mr. Goddard, and I submit that is not responsive to the question.

The Witness: Your Honor, I am not——

The Court: Just a moment. You will have to keep in mind that we are confined to the rules of evidence, here, that you are not at all familiar with, and it the duty of the court to rule on these matters. Read the last question and answer.

(Record read.)

The Court: You may conclude.

Mr. Faulkner: I submit that is not responsive to the question which I asked him, what happened to the eggs when he unloaded them on the pier?

The Court: The court has ruled. [3060]

Mr. Faulkner: Exception.

A. Then Mr. Goddard asked me what was the matter with the eggs. And I told him. I said, "Ruby, Moosman is down there and he got hold of the eggs." So I was told to unload the eggs at the plant, which I did, and there was 150 cases loaded onto my truck without a Department of Agriculture stamp on it, which I took to the dock, Pier 56, and Mr. Moosman inspected them and passed them as part of that thousand cases.

Mr. Faulkner: I ask that all that answer of the witness go out after he left the dock, as not responsive to the question.

(Testimony of Adam Thomas Andrade.)

The Court: The motion will be denied. Note an exception.

Mr. Faulkner: Exception.

Q. Now, at the time, then, that you delivered part of the eggs to the ship, and on your last load, a Department of Agriculture man was down at that Navy boat, wasn't he?

A. He had been there before.

Q. He what?

A. He had been there before.

Q. As a matter of fact, each load of eggs that went to Pier 56 for that Navy order was inspected on the dock, wasn't it?

A. It wasn't the whole load.

Q. "Yes" or "No."

A. Not the whole load.

Q. Were you there, did you observe what was done with those eggs from the time that you first delivered them onto the dock until the last load was delivered? "Yes" or "No"?

A. Yes, I did. [3061]

Q. So when you went down there with the first 150 cases of eggs, even though you went back to the firm of Nye & Nissen for 500 more cases, you still kept the first load under your observation, is that right? A. No, not that way, no, sir.

Q. So you did not keep any of those eggs under your surveillance on that dock except at the moments that your were delivering the eggs there, isn't that right? A. That is right.

Q. When was the first time that you saw Mr.

(Testimony of Adam Thomas Andrade.)

Moosman down at that dock in respect to that order?

A. About three loads—about after three loads.

Q. About after three loads?

A. That is right.

Q. And there were about three more loads after that when the 150-case incident occurred, is that right? A. Just about, that is right.

Q. You then at or about that time got a full truckload of 150 cases of eggs and took them down to the dock, is that right?

A. I didn't get your question, sir.

Q. You took back 150 cases, which was a full truck load, wasn't it? A. That is right.

Q. And then you took back 150 cases?

A. Back to where?

Q. Back to Pier 56, is that correct?

A. That is right.

Q. Then they were submitted to Mr. Moosman?

A. They were not submitted to Mr. Moosman. Mr. Moosman looked at them, himself. Nobody submitted them to him.

Q. That is right. But I mean, he was there and he looked at [3062] the second load, isn't that right?

A. What second load, sir?

Q. You took 150 cases back to Nye & Nissen?

A. That is right.

Q. Then you took 150 cases from Nye & Nissen down to the dock? A. That is right.

Q. And Mr. Moosman was there and inspected the 150 cases that was your last delivery?

(Testimony of Adam Thomas Andrade.)

A. That 150 cases that I took back, yes, that is right.

Q. And he was at the dock when you arrived there, wasn't he?

A. Yes, he was waiting for me.

Q. He was waiting for you?

A. That is right.

Q. Now, you testified, Mr. Andrade, to a transaction. You went out to the Presidio with an order for 700 odd cases of eggs, do you remember that? A. What, sir?

Q. You went out to the Presidio, Fort Mason or some place, with an order for 700 odd cases of eggs?

A. It was at Fort Mason. That is the transport docks.

Q. You remember that incident?

A. Yes, I do.

Q. And when was it? A. 1938.

Q. In nineteen what? A. 1938.

Q. What part of the year?

A. About the middle of the year, about the summer.

Q. Do you remember the type of eggs?

A. You mean the grading?

Q. Yes. A. No, sir, I do not.

Q. Were they stamped with the Veterinary Corps stamp?

A. They were stamped with a Veterinary stamp, yes, sir. [3063]

(Testimony of Adam Thomas Andrade.)

Q. You went out and delivered these cases. Where was that, again?

A. The United States Transport Dock.

Q. Is that at Ft. Mason?

A. That is part of Ft. Mason.

Q. And what happened on that occasion?

A. What do you mean?

Q. When you got out at the dock with the eggs, what happened?

A. We unloaded them.

Q. Who is we?

A. Harry Smiley and myself.

Q. Was this your truck, or his?

A. His truck, truck and trailer.

Q. Where did the truck and trailer come from?

A. Petaluma.

Q. Did you meet him over at the dock?

A. No, sir.

Q. Where did you meet him?

A. I didn't meet him.

Q. How did you get out there?

A. He took me out there.

Q. Where did you start from?

A. Nye & Nissen plant, 324 Townsend Street.

Q. I thought the truck came from Petaluma.

A. It did.

Q. And then where did it go?

A. It went to Townsend Street.

Q. And then out to Ft. Mason?

A. That is right.

Q. You went out on that trip with Mr. Smiley?

(Testimony of Adam Thomas Andrade.)

A. That is right.

Q. Were the eggs inspected there?

A. At the United States Transport Docks?

Q. Yes.

A. There were some of them we looked at, yes.

Q. There were officers there, or men?

A. Colonel Kitner and Jerry Blum.

Q. They were both there?

A. That is right. [3064]

Q. Will you describe how the Army inspects eggs at docks that you have seen?

A. Some part of the Army inspect different from others.

Q. On that occasion what did they do?

A. On this occasion this inspector, Jerry Blum, picked out some cases which were top cases off the load. It was stacked on the dock, which were samples, and I also picked some out for him, which he told me to pick them out. I don't quite remember now whether it was six cases or ten cases to start with. And Colonel Kitner was his superior officer. I opened it and Jerry Blum opened these particular cases that were wired on a hand truck. We stuck two cases in this candling booth. Colonel Kitner looked at a few and then he went over and looked at a load of hay, and he left Mr. Blum in charge. Then Mr. Blum just took two more cases into the candling room—never even looked at them—and had me open the rest of them to make believe to Colonel Kitner that all the eggs had been looked at.

(Testimony of Adolf Thomas Andrade.)

Q. Were the eggs accepted?

A. Well, the eggs were accepted.

Q. Then you drove away?

A. Yes, we drove away.

Q. Now, you went out there again, I think, with a smaller order; do you remember that?

A. No, sir, not to Ft. Mason.

Q. Ft. Mason, and you had how many cases?

A. I didn't go to Ft. Mason.

Q. What? A. I didn't go to Ft. Mason.

Q. Wherever you went out, you went out on another occasion you testified on your direct examination.

A. Did you ask [3065] me the question right, sir? I don't know which one you are talking about, I went out at various times with different orders.

Q. Did you ever go out to the Post Exchange?

A. Yes, sir.

Q. With an order for 35 to 65 cases of eggs?

A. Yes, sir.

Q. Do you remember testifying to that occasion on Friday? A. I think so.

Q. Do you? A. I think so.

Q. What happened on the occasion with respect to the eggs that you took out there?

A. They were rejected.

Q. Who rejected them? A. Colonel Dean.

Q. What did he say?

A. He told me that the eggs were no good.

Q. He told you that the eggs were no good?

A. That is right.

(Testimony of Adam Thomas Andrade.)

Q. What did you do with the eggs?

A. What did I do with them?

Q. Yes. Withdraw that, your Honor. The eggs that Colonel Dean inspected out there, did they have a Veterinary Corps inspection stamp on them when you took them out? A. No, sir.

Q. They had no stamp?

A. No, sir, they were inspected at the point of delivery.

Q. Then Colonel Dean said that he would not accept them, and what happened to the eggs then?

A. Why don't you ask me what happened, sir?

Q. Yes, what happened to the eggs.

A. No, don't ask me what happened to the eggs, sir. I can't tell you that, unless you ask me what happened.

Q. Did the eggs remain in your control after he said he would [3066] not accept them?

A. Yes, sir.

Q. Were they on your truck? A. Yes, sir.

Q. What happened to the eggs after that?

A. I brought them back.

Q. Back where? A. To the Presidio.

Q. And what happened to them then?

A. They were accepted.

Q. Who by?

A. By the Veterinary Sergeant.

Q. What was his name? A. I don't know.

Q. Then you had another occasion that you went out there with some eggs, is that right?

A. I am sorry.

(Testimony of Adam Thomas Andrade.)

Q. You testified to another occasion when you went out with some eggs? A. Yes, sir.

Q. On your direct examination.

A. Yes, sir.

Q. In which Colonel Kielsmeier had something to do with it? A. That is right, sir.

Q. When did that occur?

A. That occurred in 1939.

Q. And how many cases were involved?

A. Well, I don't know whether it was 35 or 25 cases. I don't know.

Q. Did they have a Department of Agriculture or a Veterinary Corps stamp on them?

A. No, sir.

Q. Did you deliver them to a particular place in the Presidio? A. Yes.

Q. What place? A. The Issue Warehouse.

Q. The Issue Warehouse?

A. That is right.

Q. And what happened at the Issue Warehouse with respect to [3067] the eggs?

A. Colonel Kielsmeier rejected them.

Q. What were the words he used?

A. What were the words who used?

Q. Colonel Kielsmeier. What did he say to you?

A. He said that the eggs were no good.

Q. That is what he said?

A. He rejected them.

Q. Those were the words he used?

A. Well, practically.

Q. Then you came back to Nye & Nissen?

(Testimony of Adam Thomas Andrade.)

A. No, not right away.

Q. What did you do?

A. I called on the telephone Nye & Nissen.

Q. After you telephoned what did you do?

A. I followed my instructions.

Q. What did you do, Mr. Andrade?

A. I followed my instructions.

Mr. Faulkner: I ask the Court to instruct the witness to answer the question. I asked him what he did.

The Court: What did you do?

Mr. Faulkner: Q. What did you do?

A. I drove back to Nye & Nissen—Townsend Street—

Q. Yes?

A. I didn't see an Army car outside; backed the truck into the platform; Mr. Moncharsh was the first one to touch the truck; pulled out one case of samples, dashed some eggs and said—he told Ruby, Mr. Goddard, he said, "I couldn't understand why they would reject such beautiful eggs." [3068] Then Kielsmeier—in the meantime Colonel Kielsmeier walked in and Mr. Moncharsh talked to him. And after Colonel Kielsmeier said he didn't want them eggs he left.

Mr. Moncharsh told Mr. Goddard to leave the load on the truck, to take the two samples that Kielsmeier had rejected off the load, which incidentally I was told to mark with a pencil mark, put a little cross on a chalk, and Mr. Goddard gave me two new samples to go with the load, and I left.

(Testimony of Adam Thomas Andrade.)

the plant about fifteen—about a quarter after two, to make sure that I got out there at the Post around the deadline of receiving, which is three o'clock in the afternoon.

Q. Get out to where? A. To the Post.

Q. Boat? A. The P-o-s-t.

Q. Post, yes. A. At three o'clock.

Q. Did you get there at three o'clock?

A. I got there a little before three.

Q. What time did you get there?

A. I would say around twenty minutes to three.

Q. Did you deliver the eggs to someone?

A. To someone?

Q. Yes?

A. I delivered them to the warehouse.

Q. And were they inspected?

A. They were inspected by the sergeant.

Q. What sergeant?

A. I don't know his name, sir.

Q. The same one you mentioned a little while ago?

A. I couldn't say. It is two different colonels and they [3069] usually change inspectors when they change colonels.

Q. At all events, the eggs that you have just referred to were taken back there and delivered at the Post, and you received a receipt for them and brought the receipt back, is that right?

A. That is right.

Q. And gave it to Mr. Goddard, is that correct?

A. That is right.

(Testimony of Adam Thomas Andrade.)

Q. Mr. Andrade, you testified on your direct examination to quite an extended conversation that you had with Mr. Goddard at the time you left Nye & Nissen. Do you remember that testimony?

A. I do, sir.

Q. Will you give me your best recollection of your conversation with Mr. Caton of the Spreckels-Russell Creamery when you left the employ of that company?

Mr. Pratt: I object to that, if the Court please.

Mr. Faulkner: To test his memory, your Honor, as to circumstances relating to his leaving the employ of someone.

The Witness: I will answer.

Mr. Pratt: He is asking for a conversation that took place between him and his employer on other employment at another time.

Mr. Faulkner: That is right. I want to see if he can remember the details of terminating his employment with the Spreckles Creamery as clearly as he testifies to the details of terminating his employment with Nye & Nissen. [3070]

Mr. Pratt: I object to it as not being proper cross-examination and not having anything to do with this case whatever.

The Court: Just a moment. The objection is sustained.

Mr. Faulkner: Exception, your Honor. In other words, I offer to prove, your Honor, from this question that the great detail in which the witness has testified to Mr. Goddard's conversations

(Testimony of Adam Thomas Andrade.)

with him on his last day would not be within the realm of the recollection of this witness by asking him a similar question about termination——

The Court: The purpose of the question is to test his recollection?

Mr. Faulkner: Yes, your Honor.

The Court: Read the question, Mr. Reporter.

(The last question was read.)

The Witness: I don't remember the year——

The Court: Just a moment. Read the question again.

(Question reread.)

The Witness: Just the conversation that I had with him?

The Court: Yes.

The Witness: I will go back a little further, sir.

The Court: No, just at that time.

The Witness: I have to, sir, to explain the conversation.

The Court: Just state the conversation you had. [3071]

The Witness: I was told by Mr. Caton that I was being laid off due to the fact that there was no work at Spreckels and Russells Creamery at Tenth and Mission, if I remember correctly, on the west side, which there is a gas station there now. I told Mr. Caton, I said, "Mr. Caton, you aren't laying me off for the simple reason you have no employment for me." I said, "The only reason that you are laying me off is due to the fact that

(Testimony of Adam Thomas Andrade.)

I was employed by this company through Mr. Fred Russell," which incidentally is dead today. Due to the fact that I knew Mr. Russell, I went to Mr. Russell with all my troubles. Mr. Caton didn't like that for the simple reason that he was the one who was in charge of the plant outside of Mr. Mockeby, which is the president of the company.

The Court: I might indicate to the Jury the only purpose of this question is to test the recollection of the witness. That is the purpose. It is limited to that purpose.

The Witness: So Mr. Caton—I asked him, I said,—which I will use the exact words, my recollection, I said, "Chris," I said, "you aren't laying me off for that reason." I said, "Will you tell me why?"

So he turned around and he said, "Well, Tom—or Adam," he called me, which is my first name—he said, "Adam, I don't think you are doing enough work."

So I looked at him and I laughed at him and I said, "Chris, you aren't telling the truth." [3072]

I said, "I don't care about being fired, if you want to fire me, fire me."

He said, "Well, that's it, Adam."

I said, "No, it isn't."

I said, "Chris, the rumors around here are that you have a man that is married to your cousin—they are Greek descendants—and they are up in the country some place and they have three or four children——"

(Testimony of Adam Thomas Andrade.)

The Court: Now just a moment. I shall ask the Jury now to disregard this testimony and let us proceed.

Mr. Faulkner: Q. Mr. Andrade, isn't it the fact that the circumstances and the conversation that you had with relation to terminating your employment with the Spreckels-Russell Creamery involved the subject matter of Mr. Caton finding you taking the company gasoline and that you were fired for that reason?

Mr. Pratt: I object to that. It has nothing to do with this case.

The Court: The objection will be sustained. Let it go out and let the Jury disregard it for any purpose in this case.

Mr. Faulkner: Exception. That is all.

Mr. Pratt: That is all.

Mr. Houck: Mrs. McKenna. [3073]

MRS. ELYNORE M. McKENNA

called on behalf of the Government; sworn.

The Court: I understand this witness will take——

Mr. Houck: Just a few minutes, your Honor, a very few minutes.

The Court: If it will take only a few minutes we won't take the usual recess. We will wait until you conclude with this witness.

(Testimony of Mrs. Elynore M. McKenna.)

The Clerk: Q. Will you state your name?

A. Elynore McKenna.

Direct Examination

Mr. Houck: Q. Mrs. McKenna, you have been employed at Nye & Nissen?

A. Yes, I have.

Q. When was that?

A. From 1930 to January, 1945.

Q. What were your duties at Nye & Nissen?

A. Egg candling and butter packer.

Mr. Pratt: Speak a little louder.

The Witness: Egg candling and butter packer.

Mr. Houck: Q. Were you an egg candler the entire time? A. Yes, I was.

Q. While you were working in the egg room as an egg candler who was your supervisor?

A. Ed Menges from 1934.

Q. Ed Menges from 1934 to the end of your employment? A. That is right.

Q. What did his supervision consist of?

A. Well, he gave orders in the candling room.

Q. To whom? A. To the girls.

Q. Did he handle the cases of eggs that you candled also? A. That is right.

Q. In the butter room who was your supervisor? A. Ed Menges.

Q. For what period?

A. Well, up until the time that I left the employment.

Q. From the first time you went to work there?

(Testimony of Mrs. Elynore M. McKenna.)

A. He was not employed at the time I went to work there.

Q. When did he first take charge of the butter room as you recall?

A. After James Nix left.

Mr. Faulkner: I didn't get that date.

Mr. Pratt: After James Nix left.

Mr. Houck: Q. Have you any idea when that was?

A. The early part of 1942, as far as I can remember.

Q. And Ed Menges had charge of the butter room then up until 1945 when you left?

A. That is right.

Mr. Faulkner: That is not the testimony indicated to the Court.

Mr. Pratt: Exactly.

Mr. Houck: Q. What did his supervision of the butter room consist of?

Mr. Faulkner: That is Mr. Menges?

Mr. Houck: Mr. Menges, yes.

The Witness: Supervision of the foremen.

Mr. Houck: Q. Yes, but what precisely did he do? [3075]

A. He would tell the girls in the butter room what to do.

Q. During the period that you were at Nye & Nissen who had charge of the entire plant?

A. Abe Moncharsh.

Q. And how often did you see him in the plant actually on the floor of the plant?